

REMARKS

Claims 1-29 currently are pending in the present application. Claims 1, 11, 13, and 15-18 have been amended, and claims 2, 12, 14, 28 and 29 have been cancelled. Claims 20-27 have been withdrawn. No new matter has been introduced, and the amendments are fully supported by the specification as originally filed. Page and line references are referring to the published Patent Cooperation Treaty document WO 2004/044247 A2 published 27 May 2004. Also inserted are the corresponding paragraph numbers “([ ])” from Patent Application Publication US 2006/0257871.

With respect to all amendments and cancelled claims, Applicants have not dedicated or abandoned any unclaimed subject matter and, moreover, has not acquiesced to any rejections and/or objections made by the Patent Office. Applicants reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional applications.

Basis for the above claim amendments is as follows:

**Claim 1**

Claim 1 has been amended to recite a method for determining the presence of bacteria or fungus-yeast “in a sample by detecting ribonucleic acid (RNA) that comprises a selected target region of ribosomal RNA (rRNA).” Support for this amendment can be found at least at page 12, lines 5-6 ([0050]), and lines 18-22 ([0056]).

Claim 1 has been amended to recite “extracting RNA from said sample.” Support for this amendment can be found at least in original claim 1 and at page 7, lines 14-16 ([0028]).

Step (b) of amended Claim 1 recites the element "incubating said RNA from said sample with DNase." Basis for this element can be found, for example, in Claim 1 of the application as originally filed and at page 7, lines 14-16 ([0028]).

Step (c) of amended Claim 1 recites using "polynucleotide primers that hybridize to the selected rRNA target region of bacteria or fungus-yeast but not of other organisms." Support for this amendment can be found at least at page 3, lines 11-14 ([0009]), at page 12, lines 5-6 ([0050]), and at page 12, lines 18-22 ([0056]).

Step (d) of amended Claim 1 recites hybridizing with a polynucleotide probe "that hybridizes to said amplified cDNA of bacteria or fungus-yeast but not of other organisms." Support for this amendment can be found at least at page 3, lines 11-14 ([0009]), at page 12, lines 5-6 ([0050]), and at page 13, lines 15-15 ([0055]).

Finally, Claim 1 has been amended to incorporate the provision in claim 2 that "steps (c) and (d) are performed in the same tube by means of one step real time RT-PCR."

#### **Claim 11**

Claim 11 has been amended to remove the term "up to 1000 ml." A person of ordinary skill in the art reading the application would appreciate that the methodologies disclosed in the present application could be performed on any sample volume, and therefore, the sample volume feature has been removed from claim 11. Claim 11 also has been amended to depend only from claim 1.

#### **Claims 13, and 15-17**

Claims 13 and 15-17 have been amended to depend directly from independent claim 1.

#### **Claim 18**

Claim 18 has been amended to correct a typographical error.

The undersigned would be pleased to provide the Office with a "clean" listing of the claims incorporating all of the changes made herein if that would make the examination proceed more smoothly. Please feel free to contact the undersigned if a "clean" listing of the claims is desired.

Respectfully submitted,



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